IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

CRP.No. 1325 of 2004()

OPELE.52/1997 of ADDL. DISTRICT COURT, NORTH PARAVUR
.....

REVN. PETITIONER: RESPONDENT IN O.P:

THE KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDHYUTHI BHAVANAM,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.S.ANIL, SC, KSEB

RESPONDENTS: PETITIONER IN O.P:

MUHAMMED IQBAL, S/O. ELAMANA HASAN,
KHADER PILLA, PUTHUVASSERRY KARA,
CHENGAMANADU VILLAGE.

BY ADV. SRI.B.JAYASANKAR

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 1325 OF 2004

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Dated this the 22nd day of November, 2007.

O R D E R

This revision petition is preferred against the order of the Addl. District Judge, North Paravur against the order in Ele.O.P.52/97 whereby the petitioner is allowed to realise a sum of Rs.1,02,739/- with 6% interest per annum. The question was decided taking into consideration the decision of this Court reported in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542).*** The apex Court in the decision reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***) held that matter requires reconsideration, remitted back the case to the High Court for fresh consideration. The Apex Court held that,

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land

> would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

2. Therefore in the light of the decision of the Apex Court each matter has to be decided on the merits of that case. For the said purpose both parties may have to produce additional documentary evidence as well as oral evidence. Therefore, the order under challenge is set aside and the matter is remitted back to the trial Court for fresh consideration after affording equal opportunities to both sides for adducing both oral and documentary evidences in support of their respective contentions and dispose of the matter in accordance with law in the light of the enunciated principles laid down in ***(2007 (3) KLT page 1***). Parties are directed to appear before the Court below on 17.12.07 and being a

matter of 1997, the Court shall try to dispose of the matter as expeditiously as possible at any rate within a time frame of three months from the date of first appearance of the parties.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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